



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 5, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0373

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	15.180 - Primary Investigations 15.180-POL 5. Officers Shall Document all Primary Investigations on a General Offense Report (Eff. Date 04/01/15)	Not Sustained - Unfounded (Expedited)
# 2	5.001 - Standards and Duties 5.001-POL 10. Employees Shall Strive to be Professional (Eff. Date 03/01/18)	Not Sustained - Unfounded (Expedited)
# 3	5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing (Eff. Date 07/15/18)	Not Sustained - Unfounded (Expedited)

Named Employee #2

Allegation(s):		Director's Findings
# 1	6.120 - Impounding Vehicles 6.120-POL 3. Officers Impound Vehicles When Arresting Drivers for Certain Crimes (Eff. Date 05/01/18)	Not Sustained - Lawful and Proper (Expedited)
# 2	6.120 - Impounding Vehicles 6.120-POL 9. Detectives Assigned to an Impounded Vehicle Case Retain Vehicles as Long as Necessary to Complete Investigation or Prosecution (Eff. Date 05/01/18)	Not Sustained - Lawful and Proper (Expedited)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

It was alleged that after responding to an incident involving the Complainant, Named Employee #1 (NE#1) may have falsely reported the Complainant's statements and actions at the scene of the incident. It was further alleged that, while at the scene of the incident, NE#1 may have threatened to use force on the Complainant. The Complainant also alleged that NE#1 may have arrested the Complainant due to his political ideology.

Additionally, the Complainant alleged that Named Employee #2 (NE#2) may have seized the Complainant's vehicle without cause, and that NE#2 may have held onto the Complainant's vehicle for an unnecessary amount of time.



ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General's review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the involved employees. As such, OPA did not interview the involved employees in this case.

SUMMARY OF INVESTIGATION:

All relevant portions of the interaction between the NE#1 and the Complainant were captured by Body Worn Video (BWV). Accordingly, the relevant facts regarding the interaction between NE#1 and the Complainant are not in credible dispute.

On December 9, 2018, NE#1 responded to the scene of a traffic incident, where a large white SUV could be seen stalled on the side of the street, facing diagonally toward the curb. As NE#1 walked toward the scene of the incident, the front of the white SUV could be seen to be crumpled into the trunk of a small sedan, with an individual pinned underneath and between the two vehicles. Once at the scene of impact, NE#1 began speaking to the bystanders who were treating the pinned individual. The pinned individual stated that the SUV had plowed into them as they were loading groceries into their trunk.

The bystanders then pointed out the Complainant as the driver of the white SUV. The Complainant approached NE#1 and stated to NE#1 "sir, it's my fault." NE#1 asked the Complainant to wait to the side, then took down the pinned individual's name and controlled the scene for the arriving Seattle Fire Department medics. Once medics began their work, NE#1 spoke with the Complainant, who confirmed that he had been driving the white SUV. Although the Complainant stated that he couldn't recall what had happened, he acknowledged that he had been drinking and took medication prior to the incident.

Once backup officers arrived, NE#1 began to speak with witnesses to the incident, who described the white SUV as having drifted to the side of the roadway, at which point it struck the parked cars. The backup officer who had been standing with the Complainant then approached NE#1 and advised NE#1 that the Complainant had admitted to taking oxycodone prior to the incident. At this point, NE#1 escorted the Complainant away from the crowd and toward his SPD vehicle, then advised the Complainant that he was under arrest for investigation of a DUI. The Complainant was then searched and escorted to the backseat of the SPD vehicle.

After leaving the scene of the incident, the Complainant was transported to the hospital for a court-ordered blood draw. While NE#1 escorted the Complainant to the hospital entrance, the Complainant began to direct profane language toward NE#1, then requested that NE#1 throw him to the ground. NE#1 ignored these comments.

Subsequent to NE#1's response to the scene and the Complainant's arrest for DUI, NE#2 traveled to the scene as part of a Traffic Collision Investigation Squad (TCIS). NE#2 reported that TCIS took over the scene investigation, after which point in time the Complainant's vehicle was taken into evidence. Within his report, NE#2 provided a timeline of his investigative steps, starting on December 9, 2018, the date of the traffic incident. NE#2 offered detailed notes on his work with the Complainant's vehicle, which lasted until the completion of his investigative report in March 2020. In April of 2020, NE#2 noted that the Complainant's vehicle was towed to Lincoln Towing for release to the Registered Owner, which resulted in the vehicle being in the custody of SPD for less than a year and a half.



ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

15.180 - Primary Investigations 15.180-POL 5. Officers Shall Document all Primary Investigations on a General Offense Report (Eff. Date 04/01/15)

The Complainant alleged that NE#1 failed to accurately document his primary investigation on a general report.

SPD Policy 15.180-POL-1 requires that, in primary investigations, officers conduct a thorough and complete search for evidence. The policy further requires officers to collect evidence and states that only evidence that it impractical to collect shall be retained by the owner. (SPD Policy 15.180-POL-1.) Such evidence should be photographed. (Id.)

In his complaint to OPA, the Complainant alleged that NE#1 made false statements on his police report, including that the Complainant admitted to driving while intoxicated, as well as that NE#1 conducted a field sobriety test on the Complainant. Upon completion of its Intake Investigation, OPA reviewed BWV from NE#1, wherein the Complainant is depicted at the scene of the incident, advising officers that he had been drinking while intoxicated. The Complainant also alleged that NE#1 also falsely reported that NE#1 conducted the sobriety test, but that the test was conducted a different officer. However, in his report, NE#1 reported that a field sobriety test was conducted by a different officer.

For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 5.001-POL 10. Employees Shall Strive to be Professional (Eff. Date 03/01/18)

The Complainant alleged that NE#1 was unprofessional.

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers” whether on or off duty. (SPD Policy 5.001-POL-10.) The policy further states the following: “Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person.” (Id.) Lastly, the policy instructs Department employees to “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” (Id.)

In his complaint to OPA, the Complainant alleged that while interacting with NE#1, NE#1 threatened to throw the Complainant to the ground and put his knee on the Complainant's neck. From its review of NE#1's BWV, OPA found no evidence whatsoever that NE#1 made any comment remotely suggesting that he would use force against the Complainant. Prior to NE#1 and the Complainant entering the hospital, the Complainant asked NE#1 to throw him (the Complainant) to the ground. NE#1 continued to escort the Complainant into the hospital and did not respond to the Complainant's statement.

For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded.



Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #1 - Allegation #3

5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing (Eff. Date 07/15/18)

The Complainant alleged that NE#1 engaged in bias-based policing.

SPD policy prohibits biased policing, which it defines as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” (SPD Policy 5.140-POL.) This includes different treatment based on the race of the subject. (See id.)

In his complaint to OPA, the Complainant alleged that NE#1 arrested the Complainant based on his political ideology. In reviewing BWV and the relevant police reports, OPA found no evidence to suggest that the Complainant’s political ideology played any part in the Complainant’s arrest. While the relevant police report states that the Complainant made a comment regarding secret work for Barack Obama, these comments were purportedly made at the hospital where the Complainant’s blood was drawn, long after his arrest.

For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #2 - Allegation #1

6.120 - Impounding Vehicles 6.120-POL 3. Officers Impound Vehicles When Arresting Drivers for Certain Crimes (Eff. Date 05/01/18)

The Complainant alleged that NE#2 improperly seized his vehicle.

SPD Policy requires that “Officers impound the vehicle of a driver arrested for DUI or Physical Control. (See: RCW 46.55.360.)” (SPD Policy 6.120-POL 3).

In his complaint to OPA, the Complainant alleged that NE#2 seized the Complainant’s vehicle without cause. However, BWV and the relevant police reports indicate that the Complainant was arrested based on probable cause for DUI, making the impounding of his vehicle mandatory under SPD Policy.

For these reasons, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**

Named Employee #2 - Allegation #2

6.120 - Impounding Vehicles 6.120-POL 9. Detectives Assigned to an Impounded Vehicle Case Retain Vehicles as Long as Necessary to Complete Investigation or Prosecution (Eff. Date 05/01/18)

NE#1 alleged that NE#2 improperly retained his vehicle for an excessive period of time.



SPD Policy requires that “Detectives Assigned to an Impounded Vehicle Case Retain Vehicles as Long as Necessary to Complete Investigation or Prosecution” and that “[o]nly the assigned investigative unit (detective, detective-sergeant, officer assigned to the assigned detective unit, ACT) that the vehicle is being Held for, may Release the vehicle.” (SPD Policy 6.120-POL 9).

In his complaint to OPA, the Complainant alleged that NE#2 held onto his vehicle for over three years, which he alleged was unnecessary. In his case notes, NE#2 offered detailed notes on his work with the Complainant's vehicle, which lasted from the date of the incident (12/9/2018) until the completion of his investigative report in March 2020. In April of 2020, NE#2 noted that the Complainant's vehicle was towed to Lincoln Towing for release to the Registered Owner, which resulted in the vehicle being in the custody of SPD for less than a year and a half. No evidence was found by OPA to suggest that this amount of time was in excess of what NE#2 required in order to complete his investigation, nor is this timeframe anywhere near what the Complainant alleged it to be.

For these reasons, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**